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15 FILED  
CLERK, U.S. DISTRICT COURT

16 JUN - 3 1998

17 CENTRAL DISTRICT OF CALIFORNIA  
BY DEPUTY

UNITED STATES DISTRICT COURT

18 FOR THE CENTRAL DISTRICT OF CALIFORNIA

WESTERN DIVISION

19 UNITED STATES OF AMERICA, )  
20 Plaintiff, )  
21 v. )  
22 YOUSSEF MIKHAIL-FARD, )  
23 a.k.a. Joe Mikhail, )  
24 Defendant. )

NO. CV 97-1811-JSL(CTx)

CONSENT DECREE

25 WHEREAS Plaintiff, the UNITED STATES OF AMERICA, on behalf  
26 of the Environmental Protection Agency ("EPA"), has filed a  
27

28 MLM:oh:CONSENTI.DEC

FILED  
CLERK, U.S. DISTRICT COURT

JUN 15 1998

ENTERED  
CLERK, U.S. DISTRICT COURT  
JUN 16 1998  
CENTRAL DISTRICT OF CALIFORNIA  
BY DEPUTY

THIS CONSTITUTES NOTICE OF ENTRY  
AS REQUIRED BY FRCP, RULE 77 (b).

1 Complaint against Defendant, YOUSSEF MIKHAIL-FARD (hereafter  
2 "MIKHAIL-FARD"), alleging Four Claims for Relief under the  
3 Comprehensive Environmental Response, Compensation & Liability  
4 Act ("CERCLA");

5 WHEREAS, the First Claim for Relief alleges that EPA  
6 incurred response costs and that MIKHAIL-FARD is liable for those  
7 costs under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a); the  
8 Second Claim for Relief alleges that MIKHAIL-FARD is liable for,  
9 treble damages under Section 107(c)(3) of CERCLA, 42 U.S.C. §  
10 9607(c)(3); the Third Claim for Relief alleges that MIKHAIL-FARD  
11 is liable for civil penalties under Section 106(b) of CERCLA, 42  
12 U.S.C. § 9606(b); and the Fourth Claim for Relief alleges that  
13 MIKHAIL-FARD is liable for civil penalties under Section 104(e)  
14 of CERCLA, 42 U.S.C. § 9604(e);

15 WHEREAS, this Consent Decree was negotiated and executed by  
16 the Parties to avoid the continuation of expensive and protracted  
17 litigation; and

18 WHEREAS, MIKHAIL-FARD and the UNITED STATES do hereby  
19 consent to entry of this Consent Decree as the most appropriate  
20 means of resolving the action.

21 THEREFORE upon the consent and agreement of the parties to  
22 this Consent Decree, it is ORDERED, ADJUDGED, AND DECREED:

23 I. JURISDICTION AND VENUE

24 1. The Court has jurisdiction over the subject matter and  
25 the parties pursuant to 28 U.S.C. §§ 1331, 1345 and 1355, and 42  
26 U.S.C. §§ 9604, 9606, 9607, and 9613(b) and (g). Venue is  
27 properly in this Court pursuant to 28 U.S.C. § 1391(b) and 42  
28

1 U.S.C. § 9613(b) because MIKHAIL-FARD resides in the Central  
2 District of California.

3 II. PARTIES BOUND

4 2. The provisions of this Consent Decree shall apply to  
5 and be binding on: (a) MIKHAIL-FARD, his heirs and assigns, and  
6 (b) the UNITED STATES, acting on behalf of the Environmental  
7 Protection Agency. MIKHAIL-FARD hereby certifies that he is  
8 competent to enter into and execute this Consent Decree, and to  
9 legally bind himself to its terms. In any action to enforce this  
10 Consent Decree, MIKHAIL-FARD shall not raise as a defense to  
11 enforcement the failure by any of his agents, servants,  
12 contractors, employees, attorneys, heirs or assigns to take  
13 actions necessary to comply with this Consent Decree.

14 3. MIKHAIL-FARD and the UNITED STATES agree to be bound by  
15 this Consent Decree and the parties agree not to contest its  
16 validity in any subsequent proceeding to implement or enforce its  
17 terms.

18 III. SETTLEMENT PAYMENT

19 4. Within thirty (30) calendar days after the Court's  
20 entry of this Consent Decree as a final order and judgment in  
21 favor of the UNITED STATES, MIKHAIL-FARD shall pay FIFTY THOUSAND  
22 DOLLARS (\$50,000.00) in full and final settlement of the civil  
23 claims alleged in the Complaint in this action.

24 5. If MIKHAIL-FARD fails to make the payment as required  
25 by Paragraph 4 above, this Consent Decree shall be considered an  
26 enforceable judgment in favor of the United States for \$309,000  
27 (the amount of the United States' response costs incurred in  
28 connection with the Mission Plating Company site) for purposes of

1 post-judgment collection, and interest, in accordance with Rule  
2 69 of the Federal Rules of Civil Procedure and other applicable  
3 federal authority. MIKHAIL-FARD shall pay any interest accrued  
4 on the balance of any unpaid amounts due under this Consent  
5 Decree, at the rate of 6.5% per annum, commencing on the date  
6 that such amounts were due. Further, MIKHAIL-FARD shall be  
7 liable for all fees and costs incurred by the UNITED STATES to  
8 collect any amounts due under this Consent Decree, provided the  
9 UNITED STATES prevails in any proceeding to collect any amount  
10 due.

11 6. MIKHAIL-FARD shall make the payment due under Paragraph  
12 4 above in the form of a certified or cashier's check, made  
13 payable to "EPA Hazardous Substance Superfund." The letter  
14 transmitting the check shall reference this Consent Decree, the  
15 caption and case number of this case, USAO File Number 9602862,  
16 EPA REGION IX and the Site Spill ID Number 9T 8E, and DOJ Case  
17 Number 90-11-2-1192. MIKHAIL-FARD shall send the transmittal  
18 letter and check or checks to:

19 United States Environmental Protection Agency  
20 Region IX  
21 Superfund Accounting  
22 P.O. Box 360863M  
23 Pittsburgh, PA 15251

24 7. MIKHAIL-FARD shall not deduct the amount paid under  
25 this Settlement Payment from his federal, state, or local income  
26 taxes.

#### 27 IV. CERTIFICATION OF FINANCIAL INFORMATION

28 8. As to the financial information submitted and disclosed  
to the United States by MIKHAIL-FARD prior to the commencement of  
this litigation and throughout the course of the litigation,

1 MIKHAIL-FARD certifies by his signature below that the financial  
2 information provided by him was true, correct, and accurate to  
3 the best of his knowledge, as of the date it was provided.

4 MIKHAIL-FARD further certifies that, to the best of his  
5 knowledge, there has not been any substantial or material change  
6 to his financial condition that would affect the truthfulness,  
7 accuracy, or correctness or the previously submitted information.  
8 If either of the above certifications, upon which the United  
9 States is relying, is incorrect, the dismissal to be provided  
10 pursuant to Paragraph 9, below, shall be void.

11 V. DISMISSAL OF CLAIMS

12 9. Upon the United States' receipt of all amounts due  
13 under Paragraphs 4 and 5 of this Consent Decree, this action  
14 shall be dismissed with prejudice. Within twenty days of receipt  
15 of payment, the United States will file a dismissal of all  
16 pending claims with the Court. Nothing in this Consent Decree  
17 shall be construed as a release or covenant not to sue for any  
18 claim or cause of action, administrative or judicial, civil or  
19 criminal, past or future, in law or equity, which the UNITED  
20 STATES may have against MIKHAIL-FARD for any violations of (1)  
21 any provision of this Consent Decree or (2) any statute, law, or  
22 regulation whatsoever, other than the violations alleged in the  
23 action. The UNITED STATES shall not assert that this Consent  
24 Decree provides the UNITED STATES with any admission of liability  
25 or evidence of admission of liability in any claim or cause of  
26 action, judicial or administrative, civil or criminal, past or  
27 future, in law or equity, which the UNITED STATES has or may have  
28 against MIKHAIL-FARD.

VI. RETENTION OF JURISDICTION

10. This Court retains jurisdiction to enforce this Consent Decree until such time as the provisions of this consent decree have been satisfied.

VII. EFFECTIVE DATE

11. This Consent Decree shall become effective upon entry of this Consent Decree by this Court.

ORDER

IT IS ORDERED that the Consent Decree in United States v. Youssef Mikhail-Fard, Civil Case No. 97-1811-JSL (CTx) be entered.

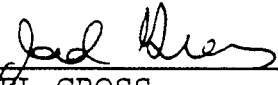
DATED: 6-15, 1998

J. SPENCER LETTS

UNITED STATES DISTRICT JUDGE  
HON. J. SPENCER LETTS

Agreed to by the parties as indicated by the signatures below:

Dated: 5/26, 1998

  
JOEL GROSS  
Section Chief  
Environmental Enforcement Section  
Environment and Natural Resources  
Division  
United States Department of Justice  
  
Attorneys for Plaintiff  
UNITED STATES OF AMERICA

1 Dated: June 2, 1998

2 NORA M. MANELLA  
3 United States Attorney  
4 LEON W. WEIDMAN  
5 Assistant United States Attorney  
6 Chief, Civil Division  
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10 MONICA L. MILLER  
11 Assistant United States Attorney

12 Attorneys for Plaintiff  
13 UNITED STATES OF AMERICA  
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3 Dated: April 29, 1998  
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8 Keith A. Takata  
9 KEITH A. TAKATA  
10 Director, Superfund Division  
11 United States Environmental  
12 Protection Agency, Region IX  
13 75 Hawthorne Street  
14 San Francisco, CA 94105  
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3 Dated: 4-10-98, 1998  
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9 YOUSSEF MIKHAIL-FARD  
10 Defendant  
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12  
13 Dated: 4-22-98, 1998  
14

15 JAFFE, TRUTANICH, SCATENA & BLUM  
16

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19 CARMEN TRUTANICH, ESQ.  
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21 Attorneys for Defendant  
22 YOUSSEF MIKHAIL-FARD  
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